



THE SUPREME COURT OF APPEAL REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY - JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

Netshimbupfe & another v Mulaudzi & others (563/17) [2018] ZASCA 98 **(4 June 2018)**

From: The Registrar, Supreme Court of Appeal

Date: 4 June 2018

Status: Immediate

Please note that the media summary is for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal.

Today, the Supreme Court of Appeal (SCA) dismissed an appeal brought by Netshimbupfe Fundzani Ernest together with Members Of Netshimbupfe Royal Family (the appellants), against a judgment of, Limpopo Division of the High Court, Polokwane.

The issue at the centre of the appeal concerned the question whether the review application by the appellant in the high court was premature and should have been left to the Premier to deal with in terms of s 12(2) of the *Limpopo Act Traditional Leadership and Institutions Act 6 of 2005* (the Limpopo Act).

The traditional community of Tshimbupfe was under the leadership of senior traditional leader, *Tshivhase*. Consequent to *Tshivhase's* death, *Tshisevhe* was appointed to succeed him. *Tshisevhe* and his other half-brother, *Tshifiwa Milton Netshimbupfe*, separately launched urgent applications in successive days, in the then Supreme Court of Venda, unsuccessfully seeking to interdict the coronation of *Munyadziwa*.

On 21 December 1991 *Munyadziwa* was recognised and remained on the throne as senior traditional leader until his death. The two cousins were each separately identified for recognition as senior traditional leader for the Netshimbupfe Traditional Community. This dual identification resulted in a dispute which became the subject of the review application and eventually this appeal.

The first appellant was identified for the position of senior traditional leader at a royal family meeting, while the fifth respondent was identified for the same position at a meeting of the royal council. Prior to the institution of these proceedings, the first appellant and the fifth respondent had separately each approached the Premier to be recognised as senior traditional leader. At the time of the hearing of this appeal, the Premier was therefore still seized with the separate applications for recognition.

The SCA found that the high court's entertainment of the matter usurped the exercise of the executive functions intended for the Premier, in terms of s 12(2) of the Limpopo Act. This Court held that the appellants should have waited until the Premier had recognised one of the successors to the throne, before approaching court.

The appeal was accordingly dismissed with costs.

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